

In the United States Court of Federal Claims

No. 16-950C, 17-2017C, 18-80C, 18-522C, 18-677C, 18-691C, 18-921C
(consolidated)

(Filed: July 3, 2018)

CB&I AREVA MOX SERVICES, LLC,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

ORDER

WHEELER, Judge.

Pending before the Court are two motions filed on April 9, 2018 by Plaintiff CB&I AREVA MOX Services, LLC (“MOX Services”). These motions relate to Case no. 17-2017C, one of the consolidated actions arising from the same contract and construction project near Aiken, South Carolina. The motions are fully briefed, and the Court heard oral argument on June 27, 2018 in Washington, D.C.

One of the motions is for partial summary judgment under Rule 56 of the Court. This motion concerns the Government’s disallowance of costs questioned by CohnResnick, an accounting firm retained by the Department of Energy, National Nuclear Security Administration (“NNSA”). MOX Services contends that a large portion of these costs are barred by the applicable six-year statute of limitations for government claims brought against a contractor. 41 U.S.C. § 7103(a)(4)(A) (2011). The six-year statute of limitations begins to run from the accrual date of the claim. The parties disagree on the date when the Government knew or should have known that it had a claim against MOX

Services. This disagreement raises a material fact issue that will be decided at trial. Accordingly, MOX Services' motion for partial summary judgment is DENIED.

The second motion is to dismiss the Government's counterclaim under Rule 12 of the Court. The counterclaim relates to a sum of money that MOX Services has repaid to the Government due to the Government's refusal to grant a deferment of collection under FAR 32.607-2. Since the disputed amount has been repaid, the counterclaim no longer presents a live case or controversy. Accordingly, MOX Services' motion to dismiss the Government's counterclaim is GRANTED.

IT IS SO ORDERED.

s/Thomas C. Wheeler
THOMAS C. WHEELER
Judge